

SCANNED



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Prepared by:
U. S. General Services Administration
77 Forsyth St.
Atlanta, GA 30303
Ph: 404-331-5133



STATE OF MISSISSIPPI
COUNTY OF HARRISON

ENVIRONMENTAL COVENANT

Owner/Grantor and Holder/Grantee

GSA Real Property Utilization and Disposal Division,
Region IV,
77 Forsyth Street,
Atlanta, Georgia, 30303

404-331-5133

And

Commission

The Mississippi Commission on Environmental Quality
Post Office Box 2261
Jackson, MS 39225

601-961-5171

INDEX: Section 33, Township 7 South, Range 11 West, Harrison County, Mississippi

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the U. S. General Services Administration ("GSA") on behalf of the United States, more specifically the U.S. Department of Agriculture ("USDA") as landholding agency ("Owner"/"Grantor" and as "Holder"/"Grantee") and the Mississippi Commission on Environmental Quality ("Commission") pursuant to the Uniform Environmental Covenants Act ("UECA"), Miss. Code Ann. §§ 89-23-1, et seq. for the purpose of subjecting the site commonly known as the USDA APHIS Laboratory (AI#69227) or the former USDA Analytical and Natural Products Chemistry Lab in Gulfport Mississippi, (the "Site") more particularly defined below as the Property to the activity and use limitations set forth herein.

RECITALS

WHEREAS, Owner has an interest in the Site, a tract of land located at 3505 25th Avenue, Gulfport, Harrison County, Mississippi, 39501, and legally described in Exhibit A hereto (collectively referred to herein as the "Property"), more particularly described below;

WHEREAS, Environmental Site Assessments have revealed a release of hazardous substances impacting soils and groundwater, including, but not limited to Dieldrin, Heptachlor Epoxide and Beta-BHC in excess of Target Remediation Goals (TRGs) as established by the Mississippi Department of Environmental Quality (MDEQ).

WHEREAS, it has been determined that activity and use limitations placed on the site were necessary to protect human health and the environment. The administrative record for the environmental response project reflected in this Environmental Covenant is referred to as the USDA APHIS Laboratory (AI#69227) and was the former Analytical and Natural Products Chemistry Lab (ANPCL), Center for Plant Science Health and Technology (CPHST), Gulfport, Mississippi, and this administrative record is located at the main office of the State of Mississippi Department of Environmental Quality in Jackson, Mississippi, at the main office of the Animal and Plant Health Inspection Service, 4700 River Road, Riverdale, Maryland, and at the Gulfport Public Library, 1708 25th Avenue, Gulfport, Mississippi, 39501.

NOW, THEREFORE, Owner/Grantor, Holder/Grantee and the Commission agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to Miss. Code Ann. §§ 89-23-1, et seq.
2. Property. This Environmental Covenant concerns approximately 4.6 acres of property, the Site located at 3505 25th Avenue, Gulfport, Harrison County, Mississippi, 39501 and more particularly described in the legal description found in Exhibit B (the "Property.")
3. Owner/Grantor. The United States is the fee simple title owner of the Property, which GSA will be disposing from Federal ownership, on behalf of the United States. GSA's office in charge of executing this Environmental Covenant, and the eventual disposal of the Property, is GSA Real Property Utilization and Disposal Division, Region IV, 77 Forsyth Street, Atlanta, Georgia, 30303.
4. Holder/Grantee. Owner, whose address is listed above, is also the Holder and the Grantee of this Environmental Covenant.

5. Transferee. A Transferee is any future owner of any interest in the Property or any portion thereof, including, but not limited to, an owner of an interest in fee simple, mortgagees, easement holders and/or lessees.

6. Commission. The Mississippi Commission on Environmental Quality is the "Commission" as defined in Miss. Code Ann. § 89-23-3(2A).

7. MDEQ. "MDEQ" is the Mississippi Department of Environmental Quality which serves as staff and acts on behalf of the Commission pursuant to Miss. Code Ann. §§ 49-17-5(3)(a) and 49-17-7(1).

8. Activity and Use Limitations. As part of the remediation of the Property; Owner imposes and agrees to comply with the following activity and use limitations:

- (a) There shall be no excavating, drilling or other subsurface activities in potentially contaminated locations underneath concrete caps as shown in Exhibit C that could create exposure to contaminated media without prior approval from MDEQ.
- (b) The groundwater at the site shall not be used without prior approval from MDEQ.
- (c) No wells shall be installed without prior approval from MDEQ.
- (d) A sign of a size, shape, construction, and layout approved by MDEQ shall be erected and maintained at the physical location of the site that reads as follows:

STOP – CALL BEFORE YOU DIG
(601) 961-5171
Regarding Former USDA APHIS
Laboratory in Gulfport, Mississippi
(AI#69227)

9. Notice of Any Breach. If any event or action constitutes a breach of the activity and use limitations, Owner/Grantor, Holder/Grantee or Transferee shall notify the MDEQ within fifteen (15) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within thirty (30) days of becoming aware of the event or action, or such other time frame as may be agreed to by the Owner or Transferee and MDEQ.

10. Running with the Land. This Environmental Covenant shall be binding upon the Owner/Grantor, Holder/Grantee or all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to Miss. Code Ann. §§ 89-23-1, et seq., subject to amendment or termination as set forth herein.

11. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced by MDEQ and the Commission and any other entity identified pursuant to Miss. Code Ann. §§ 89-23-1, et seq. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to

enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Commission or MDEQ from exercising any authority under applicable law.

12. Rights of Access. Owner hereby grants to MDEQ, its agents, contractors, and employees the right of access to the Property for implementation or for enforcement of this Environmental Covenant.

13. Compliance Reporting. Unless otherwise approved and performed by MDEQ, beginning on October 31, 2016, and annually thereafter, Owner or Transferee shall submit written documentation in a form required by MDEQ that all the activity and use limitations remain in place and are being complied with.

14. Notice prior to Conveyance. Owner/Grantor or Transferee shall provide written notice to MDEQ prior to any conveyance of an interest in any portion of the Property.

15. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 2016, RECORDED IN THE DEED OR OFFICIAL RECORDS OF HARRISON COUNTY RECORDER ON _____, 2016, IN [DOCUMENT _____, or BOOK _____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

(a) *There shall be no excavating, drilling or other subsurface activities in potentially contaminated locations underneath concrete caps as shown in Attachment B that could create exposure to contaminated media without prior approval from MDEQ.*

(b) *The groundwater at the site shall not be used without prior approval from MDEQ.*

(c) *No wells shall be installed without prior approval from MDEQ.*

(d) *A sign of a size, shape, construction, and layout approved by MDEQ shall be erected and maintained at the physical location of the site that reads as follows:*

*STOP – CALL BEFORE YOU DIG
(601) 961-5171
Regarding Former USDA APHIS
Laboratory in Gulfport, Mississippi
(AI 69227)*

Owner/Grantor or Transferee shall provide written notice to MDEQ and any Holder/Grantee within fifteen (15) days after each conveyance of an interest in any portion of the Property.

Owner/Grantor or Transferee's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

16. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- (a) that the Owner/Grantor is the sole owner of the Property;
- (b) that the Owner/Grantor holds fee simple title to the Property which is subject to the interests or encumbrances identified in Exhibit B attached hereto and incorporated by reference herein;
- (c) that the Owner/Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- (d) that the Owner/Grantor has identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owner's intention to enter into this Environmental Covenant;
- (e) that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner/Grantor is a party or by which Owner/Grantor may be bound or affected;
- (f) to the extent that any other interest in or encumbrances on the Property that conflict with the activity and use limitations set forth in this Environmental Covenant, the persons who own such interests or hold such encumbrances have agreed to subordinate such interests or encumbrances to the Environmental Covenant, pursuant to Miss. Code Ann. § 89-23-1 et seq. and a subordination agreement acceptable to MDEQ.

17. Amendment or Termination. This Environmental Covenant may be amended or terminated pursuant to Miss. Code Ann. §§ 89-23-17 and 19 and other applicable law. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed pursuant to Miss. Code Ann. §§ 89-23-17 and 19. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner/Grantor[s] or Transferee shall file such instrument for recording with the Harrison County Chancery Court Clerk, and shall provide a file- and date-stamped copy of the recorded instrument to MDEQ.

18. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

19. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Mississippi.

20. Recordation. Within fifteen (15) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Harrison County Recorder's Office.

21. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Harrison County Chancery Court Clerk.

22. Distribution of Environmental Covenant.

- a. In accordance with Miss. Code Ann. § 89-23-13, the Owner/Grantor shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the following:
 - (i) MDEQ;
 - (ii) Each signatory to the Environmental Covenant;
 - (iii) Each person holding a recorded interest in the Property;
 - (iv) Each person in possession of the Property;
 - (v) Each municipality or other unit of local government in which the Property is located; and
 - (vi) Any other person MDEQ or the Commission requires.
- b. The validity of this Environmental Covenant is not affected by Owner/Grantor's failure to provide a copy of this Covenant as required under this Paragraph.
- c. Failure by any person to provide a copy of this Covenant in the manner required by the Commission shall be punished by a civil penalty to be determined by the Commission consistent with the terms and provisions of Miss. Code Ann. § 49-17-43.

23. Notice. Unless otherwise notified in writing by or on behalf of the current owner or MDEQ, any document or communication required by this Environmental Covenant shall be submitted to:

Groundwater Assessment and Remediation Division MS
Dept. of Environmental Quality
P.O. Box 2261
Jackson, MS 39225

The undersigned representative of the Owner and the Commission represents and certifies that he/she is authorized to execute this Environmental Covenant.

IT IS SO AGREED AND SIGNED BY THE PARTIES:

UNITED STATES OF AMERICA, Acting by and through the Administrator of General Services

Lori P. Dennis

4-5-16

LORI P. DENNIS
Contracting Officer
Real Property Utilization
and Disposal Division
General Services Administration
Region IV, Atlanta, Georgia

Date

STATE OF GEORGIA)
)
COUNTY OF Fulton)

I, the undersigned, a Notary Public in and for the State of Georgia, do hereby certify that this day personally appeared before me in the state and county aforesaid, LORI P. DENNIS, Contracting Officer, Real Property Utilization and Disposal Division, General Services Administration, Region IV, Atlanta, Georgia, with whom I am personally acquainted, for and on behalf of the UNITED STATES OF AMERICA, who acknowledged she executed, signed and delivered the foregoing document dated the 5th day of April, 2015, after being authorized to do so.

Given under my hand and seal this 5th day of April, 2015.

Nancy H. Vogel
Notary Public
State of Georgia

My commission expires: 7/16/17



MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

Gary C. Rikard
 Gary C. Rikard, ~~Chairman~~ Executive Director

4/29/16
 Date

State of Mississippi)
) ss:
 County of Hinds)

Personally appeared before me, the undersigned authority in and for the said county and state, on this the 29th day of April, 2016, within my jurisdiction, the within named Gary C. Rikard, who acknowledged that he is the Executive Director of the Mississippi Department of Environmental Quality, and that in said representative capacity, he executed the above and foregoing instrument, after having been duly authorized so to do.

Jill S. Bailey (NOTARY PUBLIC)

My commission expires:

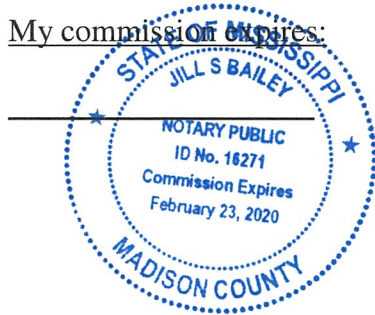


EXHIBIT A

Commencing at an iron stake set at the center of Section 33, Township 7 South, Range 11 West, Harrison County, Mississippi; thence North 0° 18' West, 60.0 feet along the North and South center line of said Section 33 to an iron stake set on the north right-of-way line of 34th Street, which is the point of beginning; thence North 0° 18' West, 528.0 feet further along said north and south center line of Section 33 to a concrete marker; thence North 89° 26' East, 412.1 feet to a concrete marker set on the west right-of-way line of 25th Avenue; thence South 0° 11' East, 528.0 feet along the west right-of-way line of 25th Avenue to a concrete marker set on the north right-of-way line of 34th Street which marker is 60 feet north of the east and west center line of said Section 33; thence South 89° 26' West, 411.0 feet along the north right-of-way line of 34th Street, to the point of beginning, being a part of the SW¼ of the NE¼ of Section 33, Township 7 South, Range 11 West, Harrison County, Mississippi, and containing 4.988 acres, more or less.

EXHIBIT B

The real property was remediated per actions taken by the U.S. Department of Agriculture (USDA), resulting in the conditions documented in the After Action Report (Non-Time Critical Removal Action at the Former CPHST ANPCL) dated March 2015, prepared by BMT Designers & Planners, Inc., and accepted by the Mississippi Department of Environmental Quality (MDEQ) on July 8, 2015. The document's Summary and Conclusions (Section 7, Page 19) identifies three (3) institutional controls to "run with the land" until Owner or subsequent Transferee(s) elect to remediate the property to unrestricted standards:

1. No use of groundwater without prior approval of MDEQ.
2. No excavation of soil under the concrete caps without prior approval of MDEQ.
3. If the concrete cap is removed for any reason, it must be replaced with a cap of equal or greater protectiveness.

The tables of contaminants below were derived from the After Action Report, Pages 41, 43, 119, 120, 122, and 127. The Site Location Map (located on the following page) was also derived from the After Action Report, Page 26 - Figure 2. For additional details, please review referenced document.

Post Excavation Soil Samples

	TRG (µg/kg)	Locations		
		B14/15-FL-01 (µg/kg)	B14/15-SW-02 (µg/kg)	ES14-19-SW-01 (µg/kg)
Dieldrin	358	820	730	700
Heptachlor Epoxide	629	710		

Ground Water Testing

	TRG (µg/L)	Locations		
		MW 02 (µg/L)	MW 03 (µg/L)	MW 05S (µg/L)
Dieldrin	0.00419	0.058	0.52	0.21
Beta-BHC	0.03720		0.17	

TRG = Target Remediation Goal

MW = Monitoring Well

